

AMENDED IN ASSEMBLY AUGUST 21, 2012

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 744

Introduced by Senator Wyland

February 18, 2011

An act to amend Section 12531 of, and to add and repeal Chapter 17 (commencing with Section 13850) of Division 5 of, the Business and Professions Code, relating to water submeters.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Wyland. Water submeters: testing.

(1) Existing law requires that a person who uses, or intends to use, any weight or measure, or weighing or measuring instrument for commercial purposes, cause them to be sealed by a sealer before using the same, unless they have been sealed before sale, in which case existing law allows the purchaser to use them for the remainder of the period authorized by regulations adopted by the Secretary of Food and Agriculture. There is within the Department of Food and Agriculture the Division of Measurement Standards, whose activities are designed to ensure, among other things, the accuracy of commercial weighing and measuring devices.

This bill would provide that any water submeter tested by equipment that is regularly calibrated by tests that are directly traceable to standards promulgated by the National Institute of Standards and Technology

shall be deemed to be sealed and approved for commercial use, as specified, provided that the submeter satisfies certain criteria, including that the submeter is otherwise a type approved by the Division of Measurement Standards.

(2) Existing law regulates the utilization and repair of weighing or measuring devices. Under existing law, for purposes of weighing and measuring devices, the term “placed in service” means to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided, or to submit a device to a sealer for verification prior to installation. Under existing law, a device may only be placed in service by a sealer or a service agency.

This bill would provide that for the purposes of any applicable law or regulation relating to the placing of a water submeter in service, including, but not limited to, the above provisions, no water submeter shall be considered to have been put into service prior to its installation if the water submeter is to be used in a multiunit residential structure. *The bill would provide that any person installing or possessing a water submeter that complies with these provisions would not be guilty of a misdemeanor unless there is a knowing and willful intent to use an incorrect or inaccurate water submeter. The bill would authorize a county sealer to test a water submeter, as provided, and would require an incorrect water submeter to be replaced with a compliant one within a reasonable period of time if one is available.* The bill would require manufacturers of submeters, or the licensed service agent responsible for the installation of water submeters, to notify the county sealer of ~~the date water submeters at the time a meter is~~ installed or otherwise placed in service and would provide that a failure to do so shall only be punishable by a civil penalty of not more than \$1,000, as provided. The bill would also make related conforming changes.

This bill would make the above provisions operative until January 1, ~~2015~~ 2016, and would state that the repeal of these provisions renders the provisions subject to review by the appropriate policy committees of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12531 of the Business and Professions
- 2 Code is amended to read:

1 12531. As used in this chapter, the following definitions are
2 applicable:

3 (a) “Service agency” means any person, as defined in Section
4 12011, that for hire, award, commission, or any other payment of
5 any kind, repairs a commercial device.

6 (b) “Service agent” means any person employed by a service
7 agency to repair a commercial device.

8 (c) “Device” means any weighing or measuring equipment,
9 contrivance, or instrument used, or designed to be used, for
10 determining weight or measure, and includes any tool, appliance,
11 or accessory used in connection therewith, that is used for
12 commercial purposes as defined in subdivision (e) of Section
13 12500.

14 (d) “Placed in service” means, except as described in Section
15 13855, to permit the use of a device that has been tested and found
16 to be correct, as defined in subdivision (c) of Section 12500, and
17 type approved, as provided for in Section 12500.5, or to submit a
18 device to a sealer for verification prior to installation.

19 (e) “Correct” means any device that meets all of the tolerance
20 and specification requirements of Section 12107.

21 (f) “Repair,” in any of its variant forms, means to provide
22 maintenance, or to install, adjust, recondition, or service a device.

23 SEC. 2. Chapter 17 (commencing with Section 13850) is added
24 to Division 5 of the Business and Professions Code, to read:

25
26 CHAPTER 17. WATER SUBMETERS
27

28 13850. (a) Any water submeter tested by equipment that is
29 regularly calibrated by tests that are directly traceable to standards
30 promulgated by the National Institute of Standards and Technology
31 shall be deemed to be tested and sealed and approved for
32 commercial use pursuant to any regulations related to the testing
33 and oversight of submeters by the Division of Measurement
34 Standards, including, but not limited to, Sections 12501.1 and
35 12502, provided that all the following conditions are met:

36 (1) The submeter complies with the accuracy tolerance for
37 submeters as published in the National Institute of Standards and
38 Technology Handbook 44.

39 (2) The submeter is otherwise a type approved by the Division
40 of Measurement Standards.

1 (3) The *identity of the entity that performed the test and the test*
2 *results are attached to the submeter.*

3 (b) Nothing in this section shall be construed to limit or alter
4 any additional regulations relating to testing and oversight of *water*
5 *submeters by the Division of Measurement Standards that are*
6 *consistent with this section.* ~~Nothing in this section shall be~~
7 ~~construed to affect any regulations promulgated by any city,~~
8 ~~county, city and county, utility, water district, or similar entity. A~~
9 ~~public entity, as defined in Section 811.2 of the Government Code,~~
10 ~~may adopt and enforce an ordinance, rule, regulation, or policy~~
11 ~~that is in furtherance of, and consistent with, this section.~~

12 13855. (a) For purposes of any applicable law or regulation
13 relating to the placing of a water submeter in service, including,
14 but not limited to, subdivision (d) of Section 12531 and Section
15 4085 of Title 4 of the California Code of Regulations, no water
16 submeter shall be considered to have been put into service prior
17 to its installation if the water submeter is to be used in a multiunit
18 residential structure.

19 (b) *For purposes of this division, any person installing or*
20 *possessing a water submeter that complies with the requirements*
21 *of this division shall not be guilty of a misdemeanor unless there*
22 *is a knowing and willful intent to use a water submeter that is*
23 *incorrect or inaccurate as defined in subdivision (d) of Section*
24 *12500.*

25 (c) *A county sealer may test a water submeter at the request of*
26 *the owner of a water submeter, to investigate a request made*
27 *pursuant to Section 12503, or periodically at the discretion of the*
28 *sealer. If a county sealer determines that the water submeter may*
29 *be incorrect the owner of the water submeter shall do both of the*
30 *following:*

31 (1) *Replace the water submeter with one that complies with the*
32 *provisions of subdivision (a) of Section 13850 within a reasonable*
33 *period of time if one is available.*

34 (2) *Notify the tenant in writing, within a reasonable period of*
35 *time, not to exceed 21 days, of the date that the water submeter*
36 *was removed and replaced.*

37 (d) *An owner of a water submeter that has complied with*
38 *subdivision (c) shall not be liable for any penalty or fines pursuant*
39 *to this division.*

1 13856. (a) Manufacturers of water submeters, or the licensed
2 service agent responsible for the installation of water submeters,
3 shall notify the county sealer of *the date* water submeters ~~at the~~
4 ~~time a meter is~~ *are* installed or otherwise placed in service.

5 (b) ~~Notwithstanding Section 12026, and subdivision (f) of~~
6 ~~Section 12015.3, a~~ A violation of this section shall only be
7 punishable pursuant to the civil penalty provisions of Section
8 12015.3.

9 13859. (a) This chapter shall remain in effect only until January
10 1, ~~2015~~ 2016, and as of that date is repealed, unless a later enacted
11 statute, that is enacted before January 1, ~~2015~~ 2016, deletes or
12 extends that date.

13 (b) Notwithstanding any other provision of law, the repeal of
14 this chapter renders the chapter subject to review by the appropriate
15 policy committees of the Legislature.